

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS (BOSTON)

UNITED STATES of AMERICA,

Action No.: 1:04-cr-10119-MEL

v.

JAMES R. HART,
Defendant.

MOTION TO TERMINATE PROBATION

NOW COMES DEFENDANT, James R. Hart, by his attorney, and moves the Court, respectfully, for an order pursuant to 18 USC 3583(e)(1)¹ terminating defendant's probation. Mr. Hart's physicians have informed counsel and the Court that Mr. Hart has inoperable pancreatic cancer and life expectancy of three to six months. (See, attached August 29, 2008 letter of Dr. Anthony Lembo, Ex. A.) The quality of Mr. Hart's life will decline in those months so that time is of the essence in hearing and deciding this motion. Granting this motion will serve the interests of justice.

Counsel has contacted AUSA Adam Bookbinder by forwarding a copy of Ex. A and shall inform the Court whether the government opposes this motion upon Mr. Bookbinder's return from vacation.

¹ **(e) Modification of Conditions or Revocation.**— The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)—

(1) terminate a term of **supervised release** and discharge the defendant **released** at any time after the expiration of one year of **supervised release**, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant **released** and the interest of justice.

Counsel asks that Mr. Hart be excused from attendance by leave of Court. Rule 32.1(c)(2)(B) permits granting this motion without defendant's attendance if "the relief sought is favorable to the person and does not extend the term of probation or of supervised release".

Dated this 29th day of August, 2008 at Boston, Massachusetts.

/s./Kevin L. Barron
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CERTIFICATE OF SERVICE

Counsel certifies that he has served AUSA Adam Bookbinder electronically with a true copy of this motion by the CM/ECF of this District today. No party requires service by mail.

/s./Kevin L. Barron
Kevin Lawrence Barron 550712